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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FANY DIAZ GARCIA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-76570

Agency No. A95-447-009

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 9, 2006^{**}

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Fany Diaz Garcia, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") denial of her motion to reopen removal proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252. We

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review for abuse of discretion the denial of a motion to reopen or reconsider. *Salta v. INS*, 314 F.3d 1076, 1078 (9th Cir. 2002). We deny the petition for review.

The BIA construed Garcia's motion to reopen as both a motion to reopen and a motion to reconsider. The BIA did not abuse its discretion in denying Garcia's motion to reopen because Garcia failed to support the motion with previously unavailable evidence. *See* 8 C.F.R. § 1003.2(c)(1); *Ordonez v. INS*, 345 F.3d 777, 784-85 (9th Cir. 2003) (explaining that the movant must support a motion to reopen with new evidence). Additionally, the BIA did not abuse its discretion in denying the motion to reconsider because Garcia failed to specify any error of fact or law in the BIA's previous decision. *See* 8 C.F.R. § 1003.2(b)(1) ("A motion to reconsider shall state the reasons for the motion by specifying the errors of fact or law in the prior Board decision and shall be supported by pertinent authority."); *see also Iturribarria v. INS*, 321 F.3d 889, 896 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.